

Title 35 – Mississippi State Tax Commission

Part IV Sales & Use

Sub Part 07 Manufacturing and Production

Chapter 03 - Producers of Sand, Gravel, Dirt or Other Mineral or Natural Resource Products

100 Rescinded

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~~Persons engaging in the business of producing sand, gravel, dirt, limestone, reef shells, coal, lignite or other natural or mineral resource products (except timber, oil, natural gas and salt taxable under separate statutes) are liable for taxes as follows:~~

~~1. Sales to nonexempt consumers within this State are taxable at the regular retail rate of sales tax levied by Section 27-65-17. Such tax is to be added to the full sales price, including but not limited to delivery or freight charges collected from the customer.~~

~~2. Wholesale sales, exempt sales, products used by the producer as a component material a qualified contract (provided by Section 27-65-21), products used by the producer as raw material of a manufactured product, or products delivered outside this State are subject to a production tax, levied by Section 27-65-15, equal to the regular retail rate of tax on the gross proceeds of sales or value when converted to use, whichever is greater. Production tax on sand, gravel, dirt, clay and limestone, however, is limited to five cents (5¢) per ton. Unlike the sales taxes levied on retail sales described in Number 1 above, delivery charges are not to be included when calculating the taxable base or "value" for production tax purposes. When the sales price and delivery charges are so commingled as to prevent an accurate determination of the sales price, the Commissioner may use an apportionment formula to establish the sales price.~~

~~101 — "Value" is determined by adding all costs, expenses, royalties and a reasonable profit of the product at the time the product is converted to use. Value must include depletion or royalties, direct labor and energy, depreciation of equipment, apportioned administrative expenses, reclamation of land and any other cost incurred in producing and processing the product for use. In no instance shall value be less than the gross proceeds of sales.~~

~~102 — The producer is the person mining, quarrying or otherwise producing or causing to be produced the products listed above and the tax shall be paid by such producer. The tax is due at the time:~~

- ~~1. Sale takes place.~~
- ~~2. Product is loaded for shipment outside this State.~~
- ~~3. If not for sale, at the time the product is converted to use.~~

~~103 — Contractors, who conduct mining operations in which natural resource products of commercial value are produced for use as a component material of construction contracts,~~

are engaged in the business of mining or producing such products and are liable for tax at the appropriate rate. However, grading, excavating, landscaping, ditching or dredging activities conducted at the project site which have the effect of moving soil from one point to another to create a road, dam, canal, etc., are not taxable production or severance.

- 104 — Purchases of gravel crushers by producers are taxable at the special 1½% rate of sales or use tax. Purchases of all other equipment used in the production of natural resource products are taxable at the regular retail rate of tax.
- 105 — Adequate records must be maintained to substantiate tax classifications of sales and purchases.
- 106 — Rental or lease of tangible personal property is taxed at the same rates as sales of the same property.
- 107 — (Reserved)